IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1013 OF 2006
IN
EXECUTION APPLICATION NO.175 OF 1994
IN
SUMMARY SUIT NO.552 OF 1975

Movanbai w/o Pyarchand Jain & Ors...Plaintiffs

Versus

M/s.Bharat Metal Works & Ors. ..Defendants

And

M/s.Maharashtra Building Materials suppliers
..Applicants

Mr.S.Purohit i/by S.A.yadav for plaintiffs.

Mr.S.S.Shah i/by R.D.Thorat for applicants.

Coram : R.S.Mohite,J

Date : 18.12.2006.

PC

1. This is a Chamber summons taken out by the applicants for setting aside a warrant of attachment dated 9.7.1998 and proclamation of sale dated 22.12.2004 in Execution application no.175 of 1994 in Summary suit no.552 of 1975 in respect of the plot of land admeasuring 708.1 sq.mts. bearing CTS No.352 corresponding to survey no.69(part) of khata no.255 of village Kanjur. From the record it is seen that their exists registered sale deed in favour of the defendant no.1 of the year 1964 and their names are also shown in the property extract

as against property no.352. As against this, the applicants claimed that survey no.69 belonged to Mohd.Yusuf Trust and it was given on monthly rent to the present applicants in the year 1982. Reliance is placed on rent receipts. There is no document to indicate as to which part of survey no.69 was owned by the said trust. No document is placed before me to show that how survey no.69 was sub-divided. Admittedly, the property extract of CTS no.352 does not show the present applicants as owners. No other document is shown to me which indicates better title to that of the applicants. Reliance is also placed on documents like grant of NA permission and lease rectification document. In this connection, I am told that lease document is executed in the year 2000 and is pending registration and hence it is not annexed to the Chamber summons. In my view, documents produced by the applicants are not sufficient to substantiate their rights and the Chamber summons is therefore, dismissed.

2. It is however, made clear that the applicants will have a right to file a substantial suit for declaration of their title if they so desire. Sheriff to act on an authenticated copy of this order. Advocate for the applicants seeks extension of interim stay for a period of 4 weeks. Interim stay to continue for a period of 4 weeks from today.

(R.S.Mohite,J)